

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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PHILLIP T. JOHNSON,

Plaintiff,

v.

**ORDER**  
05-CV-859S

DR. KHANI, *Dr. of Monroe County Jail*, and  
KRISTEN CATALANO, RN, *Director of*  
*Nursing at Monroe County Jail*,

Defendants.

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1. On December 6, 2005, Plaintiff commenced this civil rights action against Defendants under 42 U.S.C. § 1983. On March 3, 2008, Defendants filed a Motion to Dismiss pursuant to Rules 12(b)(6) and 37 of the Federal Rules of Civil Procedure. (Docket No. 53.) Defendants subsequently filed a Motion for Summary Judgment pursuant to Rule 56, on May 14, 2008. (Docket No. 60.) This Court referred Defendants' motions to the Honorable Hugh B. Scott, United States Magistrate Judge, on March 12, 2008 and May 16, 2008, for the issuance of a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). (Docket Nos. 54, 61.)

2. On January 16, 2009, Judge Scott filed a Report and Recommendation, in which he recommends that (1) Defendants' Motion for Summary Judgment be granted in its entirety, and (2) Defendants' Motion to Dismiss be treated as moot in light of the recommendation to grant Defendants' Motion for Summary Judgment. (Docket No. 65.) Plaintiff filed objections to Judge Scott's Report and Recommendation on February 19, 2009, which Defendants responded to on March 5, 2009. (Docket Nos. 69, 71.) Plaintiff's

reply affidavit, filed on March 11, 2009 (Docket No. 73), completed the briefing and this Court took the objections under advisement without oral argument.

3. This Court has carefully reviewed the Report and Recommendation, as well as the pleadings and materials submitted by the parties, and will accept Judge Scott's recommendations in their entirety.

IT HEREBY IS ORDERED, that this Court accepts Judge Scott's Report and Recommendation (Docket No. 65) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that Defendants' Motion to Dismiss (Docket No. 53) is DENIED as moot.

FURTHER, that Defendants' Motion for Summary Judgment (Docket No. 60) is GRANTED consistent with Judge Scott's Report and Recommendation.

FURTHER, that Plaintiff's Objections (Docket No. 69) are DENIED.

FURTHER, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: March 26, 2009  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge